

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

KIRVEN JACKSON §
Plaintiff, §
§
v. § CIVIL ACTION NO. 5:21-cv-290
§
WAL-MART STORES TEXAS, LLC §
Defendant. § JURY DEMANDED

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1332 and 1441 (DIVERSITY)**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW WAL-MART STORES TEXAS, LLC, Defendant in the above entitled and numbered cause, and files this Notice of Removal of the present cause from the 407th Judicial District Court of Bexar County, Texas, in which it is now pending, to the United States District Court for the Western District of Texas, San Antonio Division, showing the Court in support as follows:

1. This cause was commenced in the 407th Judicial District Court of Bexar County, Texas, on February 10, 2021, when Plaintiff's Original Petition was filed in Cause No. 2021CI02677 wherein Plaintiff named Wal-Mart Stores Texas, LLC as the sole Defendant. A copy of Plaintiff's Original Petition is attached hereto and incorporated herein for all purposes.
2. Defendant Wal-Mart Stores Texas, LLC was served with a copy of Plaintiff's Original Petition on February 23, 2021. A copy of the Citation indicating date of service is attached hereto and incorporated herein for all purposes.

3. Plaintiff filed this civil action against Wal-Mart Stores Texas, LLC asserting premises liability and negligence claims arising from an incident which is claimed to have occurred on or about February 22, 2020, while Plaintiff was a patron at Defendant's premises located at 2100 South East Loop 410 in San Antonio, Bexar County, Texas. Pl. Orig. Pet. at ¶6. Plaintiff complains of "unsafe/crowded product placement" and asserts that "items were poorly stacked and caused an avalanche of luggage to collapse on Plaintiff." *Id.*

4. Defendant Walmart, Inc. filed a responsive pleading in State Court on March 5, 2021, a copy of which is attached hereto and incorporated herein for all purposes.

5. Plaintiff resides in Bexar County in the State of Texas. *Id.* at ¶2. Plaintiff was at the time of the filing of this lawsuit, and remains, a citizen of the State of Texas.

6. Wal-Mart Stores Texas, LLC was, at the time of the filing of Plaintiff's Original Petition, and is at the time of filing of this Notice of Removal, a limited liability company existing under the laws of the State of Delaware with its principal office and residence in Bentonville, Arkansas.

7. Wal-Mart Stores Texas, LLC has one member, Wal-Mart Real Estate Business Trust. Wal-Mart Real Estate Business Trust was, at the time of the filing of Plaintiff's Original Petition, and is at the time of filing of this Notice of Removal, a Delaware Statutory Trust with its principal office and residence in Bentonville, Arkansas.

8. Complete diversity of citizenship exists between the adverse parties in the present cause for the purposes of federal removal jurisdiction pursuant to 28 U.S.C. §1441.

9. Plaintiff's Original Petition states that he seeks monetary damages in an amount of "Over Two Hundred Thousand and 00/100 Dollars (\$200,000.00) but not more than One Million

and 00/100 Dollars (\$1,000,000.00)." Pl. Orig. Pet. at ¶5. The amount in controversy herein therefore exceeds \$75,000.00, exclusive of interest and costs.

10. This action is one over which this Court has original jurisdiction under the provisions of Title 28, United States Code §§ 1332 and 1441(a) in that it is a civil action between completely diverse parties and that amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

11. This Notice of Removal is timely filed in accordance with 28 U.S.C. §1446(b), in that it is filed within thirty (30) days of the service of Plaintiff's Original Petition on Defendant and within one year of the initial filing of the lawsuit.

12. Upon filing of this Notice of Removal of this cause, written notice of the filing by Defendant to Plaintiff has been provided as required by law. A copy of this Notice is also being filed with the Clerk of the State Court in which this cause was originally filed.

13. Defendant hereby requests a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays for removal of the above entitled and numbered cause from the 407th Judicial District Court of Bexar County, Texas to this Honorable Court.

Respectfully Submitted,

/s/Jaime A. Saenz
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ATTORNEYS FOR DEFENDANTS
WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of March 2021 I electronically filed the foregoing with the Clerk of Court for the District Court of Bexar County, Texas using the CM/ECF system for the Clerk of Court for the District Court of Bexar County, Texas which will send notification of such filing to all counsel of record.

/s/Jaime A. Saenz
JAIME A. SAENZ